

## REMARKS

This application contains claims 43-51. Claims 43-51 have been rejected. Claims 43 and 48 have been amended. Therefore, claims 43-51 are pending in the application. The claims as amended herein are fully supported by the application as filed. Reconsideration of the application based on the arguments submitted below is respectfully requested.

### Claim Rejections under 35 USC § 102(b)

Claims 43-51 have been rejected under 35 USC § 102(b) as being anticipated by Johnson (3,098,597). Regarding claims 43, 47 and 48, the Examiner asserts that Johnson discloses a cooking vessel made from a sheet of aluminum or aluminum alloy with no other metallic, aluminum or aluminum alloy layers having a patterned surface capable of supporting a food product (citing Figures 1-3, column 3, lines 2-7) with raised portions (5) that form a substantially planar surface. The Examiner asserts “[t]he raised portions extend generally vertically from the lower portions and the raised and lower portions form air pockets.” Regarding claims 44-46 and 49-51, the Examiner additionally asserts Johnson discloses air pockets or channels and is capable of providing air circulation or air flow during cooking and enhancing heat transfer during cooking. Applicant respectfully traverse the Examiner’s assertions.

It is to be noted that “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” MPEP §2131 citing Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Furthermore, “[t]he identical invention must be shown in as complete detail as is contained in the . . . claim.” Id. citing

Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Contrary to the Examiner's assertions, Johnson does not disclose the air pockets or air channels required by the claims of the present invention or the patterned surface to support a food product during cooking. Unlike the patterned surface of the present invention which supports a food product, the pressed bottom portion 3 of the dish in Johnson at Col. 2, lines 41-45, "provide[s] a narrow base rim 4 upon which the utensil can depend to come to rest." As such, Johnson notes, "the dish is sturdy enough to withstand rough use." (Col. 2, lines 45-48.) As amended, claims 43-51 include features not present in the prior art. Claims 43 and 48 have been amended to include an embossed surface. Applicant respectfully request reconsideration and withdrawal of the rejection based on Johnson.

#### Claim Rejections under 35 USC §102(e)

Claims 43-51 have been rejected under 35 USC §102(e) as being anticipated by Sheu (5,740,937). With respect to claims 43, 47 and 48, the Examiner asserts that Sheu discloses a cooking vessel (2, Figure 4, column 2, lines 48-52) made from a sheet of aluminum or aluminum alloy with no other metallic, aluminum or aluminum alloy layers (column 2, line 24) having a patterned surface for supporting a food product with lower portions (22, 222) raised portions (221) that form a substantially planar surface. Citing column 2, lines 34-38, the Examiner states the raised portions extend generally vertically from the lower portions and the raised and lower portions form air pockets or air channels. With respect to claims 44-46 and 49-51, the Examiner asserts that Sheu discloses air pockets or channels and is capable of providing air circulation or air flow

during cooking and enhancing heat transfer during cooking. Applicant respectfully traverse the Examiner's assertions.

As noted above, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP §2131 citing Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim." Id. citing Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Sheu is directed to a combination pan which is comprised of two pieces, namely, a frying pan and a steamer pan detachably attached together. (Col. 1, lines 23-25) Contrary to the Examiner's assertions, Sheu does not disclose the air pockets or air channels required by the claims of the present invention or the patterned surface to support a food product during cooking. In contrast to the claimed invention, Sheu does not provide a vessel with an improved surface that forms pockets between the food product or other article that allow air to flow and circulate under the surface of the food item or other article supported on the improved surface. Furthermore, as amended, claims 43-51 include features not present in the prior art. Claims 43 and 48 have been amended to include an embossed surface. Applicant respectfully request reconsideration and withdrawal of the rejection based on Sheu.

#### Claim Rejections under 35 USC §102(e)

Claims 43-51 have been rejected under 35 USC § 102(e) as being anticipated by Doyle (5,628,426). With respect to claims 43, 47 and 48, the Examiner asserts that Doyle

discloses a cooking vessel (Figures 1-9, column 3, lines 36-47) made from a sheet of aluminum or aluminum alloy with no other metallic, aluminum or aluminum alloy layers (column 5, lines 8-14) having a patterned surface for supporting a food product with lower portions (22, 222) raised portions (224, Figure 9) that form a substantially planar surface. The Examiner asserts the raised portions extend generally vertically from the lower portions and the raised and lower portions form air pockets or air channels. According to the Examiner, Doyle indicates the surface may be provided with a non-stick coating but “this is not a required element as is shown by Doyle et al. in their claim 1.” With respect to claims 44-46 and 49-51, the Examiner asserts that Doyle discloses air pockets or channels and is capable of providing air circulation or air flow during cooking and enhancing heat transfer during cooking. Applicant has considered the Examiner’s position and respectfully traverse the rejection.

As amended, claims 43-51 include features not present in the prior art. Claims 43 and 48 have been amended to include an embossed surface. Applicant respectfully request reconsideration and withdrawal of the rejection based on Doyle.

#### Claim Rejections - Double Patenting

Claims 43-51 have been rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims of U.S. Patent No. 6,279,771 in view of Johnson et al (3,098,597), Sheu (5,740,937) or Doyle et al (5,628,426). Claims 43-51 have also been rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims of U.S. Patent No. 6,722,522 in view of Johnson et al (3,098,597), Sheu (5,740,937) or Doyle et al (5,628,426). Applicant’s have submitted herewith two Terminal Disclaimers in compliance with 37 CFR 81.321(c), along with

authorization for the Commissioner to charge the applicable fees, to overcome these rejections.

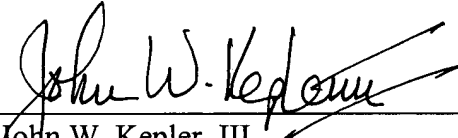
### CONCLUSION

In view of the foregoing remarks, Applicant respectfully submit that the claims as amended are in condition for allowance and respectfully request withdrawal of the rejections set forth above.

The Commissioner is authorized to charge any deficiency associated with the filing of this Response to Deposit Account 501846.

Respectfully submitted,

Date: OCTOBER 5, 2006

  
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John W. Kepler, III  
Registration Number: 30397